

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
SPARTANBURG DIVISION

JANE DOE,

Plaintiffs,

vs.

Case No.: 7:21-CV-03193

COLLINS MURPHY, SHARON
HAMMONDS, BRENDA F. WATKINS,
LIMESTONE UNIVERSITY, MG
FREESITES, LTD., d/b/a PORNHUB.COM,
MG FREESITES II LTD., MINDGEEK
S.A.R.L., MINDGEEK USA, INC., MG
BILLING LTD., HAMMY MEDIA, LTD.
d/b/a XHAMSTER.COM, TRAFFICSTARS
LTD., WISEBITS LTD., XHAMSTER IP
HOLDINGS LTS, WISEBITS IP LTD

Defendants.

**HAMMY MEDIA LTD.'S ANSWER TO THIRD AMENDED COMPLAINT,
AFFIRMATIVE DEFENSES, AND JURY TRIAL DEMAND**

Defendant Hammy Media, Ltd. d/b/a XHamster.com ("HML"), by and through its undersigned counsel, for its Answer to the Third Amended Complaint of Plaintiffs herein states as follows:

ANSWER

INTRODUCTION

1. This paragraph contains an introductory statement and, as such, no response is necessary. To the extent that a response is required, HML denies the allegations of this paragraph.
2. This paragraph contains an introductory statement and, as such, no response is necessary. To the extent that a response is required, HML denies the allegations of this paragraph.

3. This paragraph contains an introductory statement not aimed at HML and, as such, no response is necessary. To the extent that a response is required, HML states that it is without sufficient information to admit or deny the allegations. contained in this paragraph.

4. This paragraph contains an introductory statement and, as such, no response is necessary. To the extent that a response is required, HML denies the allegations of this paragraph.

JURISDICTION AND VENUE

5. Denied.

6. Denied.

PARTIES

7. HML is without sufficient information to admit or deny the allegations. contained in this paragraph.

8. HML is without sufficient information to admit or deny the allegations. contained in this paragraph.

9. HML is without sufficient information to admit or deny the allegations. contained in this paragraph.

10. HML is without sufficient information to admit or deny the allegations. contained in this paragraph.

11. HML is without sufficient information to admit or deny the allegations. contained in this paragraph.

12. This paragraph contains a conclusion of law not directed at HML and , as such, no response is required. To the extent a response is required, HML denies the allegations of this paragraph.

13. HML is without sufficient information to admit or deny the allegations. contained in this paragraph.

14. HML is without sufficient information to admit or deny the allegations. contained in this paragraph.

15. HML is without sufficient information to admit or deny the allegations. contained in this paragraph.

16. HML is without sufficient information to admit or deny the allegations. contained in this paragraph.

17. HML is without sufficient information to admit or deny the allegations. contained in this paragraph.

18. This paragraph contains a definition set forth by Plaintiff and, as such, no response is required.

19. HML is without sufficient information to admit or deny the allegations. contained in this paragraph.

20. HML is without sufficient information to admit or deny the allegations. contained in this paragraph.

21. HML admits that it is a Cypriot company headquartered in Cyprus.¹ HML denies the remaining allegations contained in this paragraph. In further answering, HML states that it does not now have, and has never had, an office in Texas.

¹ HML asserts that it is not subject to personal jurisdiction in South Carolina or the United States. (Indeed, another Federal District Court previously found that Hammy's website, XHamster.com, was not aimed at any specific state within the United States and, therefore, Hammy was not subject to personal jurisdiction there. *See Fraserside IP L.L.C. v. Hammy Media, Ltd.*, 2012 U.S. Dist. LEXIS 5359, *25 (N.D. Iowa Jan. 17, 2012)(“Although xHamster's website is both commercial and interactive, as an Iowa district court noted in a case presenting similar facts, such a website “is arguably no more directed at Iowa than at Uzbekistan.”). HML raised the lack of personal

22. Denied.

23. Denied.

24. Denied.

25. Denied.

26. Denied.

27. This paragraph contains a definition set forth by Plaintiff and, as such, no response is required.

BACKGROUND

28. This paragraph contains allegations not directed at HML and, as such, no response is necessary. To the extent that a response is required, HML states that it is without sufficient information to admit or deny the allegations. contained in this paragraph.

29. This paragraph contains allegations not directed at HML and, as such, no response is necessary. To the extent that a response is required, HML states that it is without sufficient information to admit or deny the allegations. contained in this paragraph.

30. This paragraph contains allegations not directed at HML and, as such, no response is necessary. To the extent that a response is required, HML states that it is without sufficient information to admit or deny the allegations. contained in this paragraph.

31. Denied.

32. Denied.

33. Denied.

34. Denied.

jurisdiction in its Motion for Judgment on the Pleadings, filed contemporaneously with its Answer to the Fourth Amended Complaint, still pending before this Court. HML intends to file a new Motion for Judgment on the Pleadings in Connection with the Fifth Amended Complaint.

35. Denied.

36. This paragraph contains allegations not directed at HML and, as such, no response is necessary. To the extent that a response is required, HML states that it is without sufficient information to admit or deny the allegations. contained in this paragraph.

37. Denied.

38. Denied.

39. This paragraph contains allegations not directed at HML and, as such, no response is necessary. To the extent that a response is required, HML states that it is without sufficient information to admit or deny the allegations. contained in this paragraph.

40. Denied.

41. Denied.

42. Denied.

43. This paragraph contains allegations not directed at HML and, as such, no response is necessary. To the extent that a response is required, HML states that it is without sufficient information to admit or deny the allegations. contained in this paragraph.

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45. Denied.

46. Denied.

47. This paragraph contains allegations not directed at HML and, as such, no response is necessary. To the extent that a response is required, HML states that it is without sufficient information to admit or deny the allegations. contained in this paragraph.

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51. Denied.

52. Denied.

53. Denied.

54. This paragraph contains allegations not directed at HML and, as such, no response is necessary. To the extent that a response is required, HML states that it is without sufficient information to admit or deny the allegations. contained in this paragraph.

55. Denied.

56. This paragraph contains allegations not directed at HML and, as such, no response is necessary. To the extent that a response is required, HML states that it is without sufficient information to admit or deny the allegations. contained in this paragraph.

57. This paragraph contains allegations not directed at HML and, as such, no response is necessary. To the extent that a response is required, HML states that it is without sufficient information to admit or deny the allegations. contained in this paragraph.

58. Denied.

59. Denied.

60. This paragraph contains allegations not directed at HML and, as such, no response is necessary. To the extent that a response is required, HML states that it is without sufficient information to admit or deny the allegations. contained in this paragraph.

61. This paragraph contains allegations not directed at HML and, as such, no response is necessary. To the extent that a response is required, HML states that it is without sufficient information to admit or deny the allegations. contained in this paragraph.

62. Denied.

63. Denied.

64. Denied.

FACTS

65. HML restates and reasserts its responses to the prior paragraphs as if set forth in full herein.

66. This paragraph contains allegations not aimed at HML and, as such, no response is necessary. To the extent that a response is required, HML states that it is without sufficient information to admit or deny the allegations. contained in this paragraph.

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76. HML is without sufficient information to admit or deny the allegations. contained in this paragraph and, as such, denies the same.

77. HML is without sufficient information to admit or deny the allegations. contained in this paragraph and, as such, denies the same.

78. HML is without sufficient information to admit or deny the allegations. contained in this paragraph and, as such, denies the same.

79. HML is without sufficient information to admit or deny the allegations. contained in this paragraph and, as such, denies the same.

80. HML is without sufficient information to admit or deny the allegations. contained in this paragraph and, as such, denies the same.

81. HML is without sufficient information to admit or deny the allegations. contained in this paragraph and, as such, denies the same.

82. HML is without sufficient information to admit or deny the allegations. contained in this paragraph and, as such, denies the same.

83. HML is without sufficient information to admit or deny the allegations. contained in this paragraph and, as such, denies the same.

84. HML is without sufficient information to admit or deny the allegations. contained in this paragraph and, as such, denies the same.

85. HML is without sufficient information to admit or deny the allegations. contained in this paragraph and, as such, denies the same.

86. HML is without sufficient information to admit or deny the allegations. contained in this paragraph and, as such, denies the same.

87. HML is without sufficient information to admit or deny the allegations. contained in this paragraph and, as such, denies the same.

88. HML denies that it made any payments to any user in connection with the videos at issue in this case. In all other respects, HML is without sufficient information to admit or deny the allegations. contained in this paragraph and, as such, denies the same.

89. HML denies that it made any payments to any user in connection with the videos at issue in this case. In all other respects, HML is without sufficient information to admit or deny the allegations. contained in this paragraph and, as such, denies the same.

90. Denied.

91. Denied.

92. Denied.

93. This paragraph contains allegations not aimed at HML and, as such, no response is necessary. To the extent that a response is required, HML states that it is without sufficient information to admit or deny the allegations. contained in this paragraph.

94. Denied.

FIRST CAUSE OF ACTION AGAINST DEFENDANTS MURPHY, MINDGEEK, AND
XHAMSTER
(VIOLATION OF THE TRAFFICKING VICTIMS PROTECTION
REAUTHORIZATION ACT (“TVPRA”), 18 U.S.C. §§1591, 1595)

95. HML incorporates by reference and reasserts all previous responses and denials contained in this Answer as if fully set forth herein.

96. This paragraph contains statements of law for which no response is required. To the extent that a response is required, HML denies the allegations of this paragraph.

97. This paragraph contains statements of law for which no response is required. To the extent that a response is required, HML denies the allegations of this paragraph.

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101. This paragraph contains statements of law for which no response is required. To the extent that a response is required, HML denies the allegations of this paragraph.

102. Denied.

103. Denied.

104. Denied.

105. Denied.

106. Denied.

107. Denied.

108. Denied.

109. Denied.

110. Denied.

**SECOND CAUSE OF ACTION AGAINST THE DEFENDANTS MURPHY, MINDGEEK
and xHAMSTER**
**(CONDUCTING THE AFFAIRS OF AN ENTERPRISE THROUGH A PATTERN OF
RACKETEERING ACTIVITY - 18 U.S.C. § 1962(c) and 1964(c))**

111. HML incorporates by reference and reasserts all previous responses and denials contained in this Answer as if fully set forth herein.

THE ENTERPRISE

112. This paragraph contains conclusions of law and, as such, no response is necessary. To the extent that a response is required to the allegations of law, HML denies the same.

113. Denied.

114. Denied.

115. Denied.

116. Denied.

117. Denied.

118. Denied.

119. Denied.

120. Denied.

THE PATTERN OF RACKETEERING

121. Denied.

122. Denied.

123. Denied.

124. Denied.

125. Denied.

126. Denied.

127. Denied.

128. Denied.

129. Denied.

130. Denied.

131. Denied.

132. Denied.

THIRD CAUSE OF ACTION AGAINST DEFENDANT MURPHY **(Invasion of Privacy - Wrongful Intrusion Upon Private Affairs)**

133. HML incorporates by reference and reasserts all previous responses and denials contained in this Answer as if fully set forth herein.

134. This paragraph contains allegations not aimed at HML and, as such, no response is necessary. To the extent that a response is required, HML states that it is without sufficient information to admit or deny the allegations. contained in this paragraph.

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141. This paragraph contains allegations not aimed at HML and, as such, no response is necessary. To the extent that a response is required, HML states that it is without sufficient information to admit or deny the allegations. contained in this paragraph.

FOURTH CAUSE OF ACTION AGAINST DEFENDANT MURPHY
(Invasion of Privacy – Wrongful Publicizing of Private Affairs)

142. HML incorporates by reference and reasserts all previous responses and denials contained in this Answer as if fully set forth herein.

143. This paragraph contains allegations not aimed at HML and, as such, no response is necessary. To the extent that a response is required, HML states that it is without sufficient information to admit or deny the allegations. contained in this paragraph.

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149. This paragraph contains allegations not aimed at HML and, as such, no response is necessary. To the extent that a response is required, HML states that it is without sufficient information to admit or deny the allegations. contained in this paragraph.

FIFTH CAUSE OF ACTION AGAINST DEFENDANT MURPHY
(Invasion of Privacy – Wrongful Appropriation of Personality)

150. HML incorporates by reference and reasserts all previous responses and denials contained in this Answer as if fully set forth herein.

151. This paragraph contains allegations not aimed at HML and, as such, no response is necessary. To the extent that a response is required, HML states that it is without sufficient information to admit or deny the allegations. contained in this paragraph.

152. This paragraph contains allegations not aimed at HML and, as such, no response is necessary. To the extent that a response is required, HML states that it is without sufficient information to admit or deny the allegations.

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157. This paragraph contains allegations not aimed at HML and, as such, no response is necessary. To the extent that a response is required, HML states that it is without sufficient information to admit or deny the allegations.

SIXTH CAUSE OF ACTION AGAINST DEFENDANT MURPHY
(Intentional Infliction of Emotional Distress)

158. HML incorporates by reference and reasserts all previous responses and denials contained in this Answer as if fully set forth herein.

159. This paragraph contains allegations not aimed at HML and, as such, no response is necessary. To the extent that a response is required, HML states that it is without sufficient information to admit or deny the allegations.

160. This paragraph contains allegations not aimed at HML and, as such, no response is necessary. To the extent that a response is required, HML states that it is without sufficient information to admit or deny the allegations.

161. This paragraph contains allegations not aimed at HML and, as such, no response is necessary. To the extent that a response is required, HML states that it is without sufficient information to admit or deny the allegations.

162. This paragraph contains allegations not aimed at HML and, as such, no response is necessary. To the extent that a response is required, HML states that it is without sufficient information to admit or deny the allegations.

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164. This paragraph contains allegations not aimed at HML and, as such, no response is necessary. To the extent that a response is required, HML states that it is without sufficient information to admit or deny the allegations.

SEVENTH CAUSE OF ACTION AGAINST DEFENDANTS LIMESTONE and
HAMMONDS
(Negligent Hiring)

165. HML incorporates by reference and reasserts all previous responses and denials contained in this Answer as if fully set forth herein.

166. This paragraph contains allegations not aimed at HML and, as such, no response is necessary. To the extent that a response is required, HML states that it is without sufficient information to admit or deny the allegations.

167. This paragraph contains allegations not aimed at HML and, as such, no response is necessary. To the extent that a response is required, HML states that it is without sufficient information to admit or deny the allegations.

168. This paragraph contains allegations not aimed at HML and, as such, no response is necessary. To the extent that a response is required, HML states that it is without sufficient information to admit or deny the allegations.

169. This paragraph contains allegations not aimed at HML and, as such, no response is necessary. To the extent that a response is required, HML states that it is without sufficient information to admit or deny the allegations.

170. This paragraph contains allegations not aimed at HML and, as such, no response is necessary. To the extent that a response is required, HML states that it is without sufficient information to admit or deny the allegations.

171. This paragraph contains allegations not aimed at HML and, as such, no response is necessary. To the extent that a response is required, HML states that it is without sufficient information to admit or deny the allegations.

172. This paragraph contains allegations not aimed at HML and, as such, no response is necessary. To the extent that a response is required, HML states that it is without sufficient information to admit or deny the allegations.

**EIGHTH CAUSE OF ACTION AGAINST DEFENDANTS LIMESTONE, HAMMONDS
and WATKINS**
(Negligent Supervision)

173. HML incorporates by reference and reasserts all previous responses and denials contained in this Answer as if fully set forth herein.

174. This paragraph contains allegations not aimed at HML and, as such, no response is necessary. To the extent that a response is required, HML states that it is without sufficient information to admit or deny the allegations.

175. This paragraph contains allegations not aimed at HML and, as such, no response is necessary. To the extent that a response is required, HML states that it is without sufficient information to admit or deny the allegations.

176. This paragraph contains allegations not aimed at HML and, as such, no response is necessary. To the extent that a response is required, HML states that it is without sufficient information to admit or deny the allegations.

177. This paragraph contains allegations not aimed at HML and, as such, no response is necessary. To the extent that a response is required, HML states that it is without sufficient information to admit or deny the allegations.

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179. This paragraph contains allegations not aimed at HML and, as such, no response is necessary. To the extent that a response is required, HML states that it is without sufficient information to admit or deny the allegations.

NINTH CAUSE OF ACTION AGAINST DEFENDANTS MINDGEEK AND xHAMSTER
(Negligent Monitoring)

180. HML incorporates by reference and reasserts all previous responses and denials contained in this Answer as if fully set forth herein.

181. HML admits that it operates an adult website. To the extent not otherwise admitted, HML denies the allegations of this paragraph.

182. Denied.

183. Denied.

184. Denied.

185. Denied.

186. Denied.

**TENTH CAUSE OF ACTION AGAINST DEFENDANTS MINDGEEK AND
xHAMSTER
(False Light)**

187. HML incorporates by reference and reasserts all previous responses and denials contained in this Answer as if fully set forth herein.

188. HML admits that it operates an adult website. To the extent not otherwise admitted, HML denies the allegations of this paragraph.

189. HML is without sufficient information to admit or deny the allegations.

190. HML is without sufficient information to admit or deny the allegations.

191. HML is without sufficient information to admit or deny the allegations.

192. Denied.

193. Denied.

**ELEVENTH CAUSE OF ACTION AGAINST THE DEFENDANTS MURPHY,
MINDGEEK and xHAMSTER
(Civil Conspiracy)**

194. HML incorporates by reference and reasserts all previous responses and denials contained in this Answer as if fully set forth herein.

195. Denied.

196. Denied.

197. Denied.

AFFIRMATIVE DEFENSES

1. This Court does not have personal jurisdiction over HML and, as such, cannot adjudicate the claims against it consistent with the Due Process Clause of the United States Constitution.

2. The allegations and claims in the Complaint fail, in whole or in part, to state a claim upon which relief may be granted.

3. The allegations and claims in the Complaint fail, in whole or in part, as being outside of the statute of limitations.

4. The allegations and claims in the Complaint fail as they are barred in part or in whole by Section 230 of the Communications Decency Act.

5. The allegations and claims in the Complaint fail, in whole or in part, because HML was not the proximate cause of any of Plaintiff's damages.

6. The allegations and claims in the Complaint fail, in whole or in part, as the damages alleged by Plaintiff are the result of the actions of others.

7. The allegations and claims in the Complaint fail, in whole or in part, because HML did not owe a duty of care of the Plaintiff.

8. The allegations and claims in the Complaint for Civil Conspiracy fail inasmuch as there was no common design or agreement as between the Defendants.

9. The allegations and claims in the Complaint arising under the Civil RICO statute fail inasmuch as no enterprise existed between the Defendants.

10. The allegations and claims in the Complaint arising under the Civil RICO statute fail inasmuch as there was no pattern of racketeering activities.

11. The allegations and claims in the Complaint arising under the Civil RICO statute fail inasmuch as the acts complained of did not have an effect on interstate commerce.

12. The allegations and claims in the Complaint arising under the Trafficking Victims Protection Reauthorization Act ("TVPRA") fail inasmuch as HML did not knowingly participate in any violation of the statute.

13. The allegations and claims in the Complaint arising under the TVPRA fail inasmuch as HML did not knowingly benefit from any violation of the statute.

14. The allegations and claims in the Complaint arising under the TVPRA fail inasmuch as the Complaint fails to allege a commercial sex act.

15. The allegations and claims in the Complaint arising under the TVPRA fail inasmuch as the Complaint fails to allege that Plaintiffs were under the age of 18 at the time of any violation of the statute.

16. The allegations and claims in the Complaint arising under the TVPRA fail inasmuch as the Complaint fails to allege the required elements of that statute.

HML has not knowingly or intentionally waived any applicable affirmative defenses and reserves the right to assert and rely on such other applicable affirmative defenses as may become available or apparent upon discovery of further information concerning Plaintiff's claims.

PRAYER FOR RELIEF

WHEREFORE, HML prays that the Court award the following relief:

- A. That judgment enter for HML and against Plaintiff on each of the Counts of the Complaint;
- B. That the Court dismiss Plaintiff's Complaint in its entirety; and
- C. That the Court award HML such other relief the Court deems to be just.

Defendant Demands a Trial by Jury on All Claims so Triable

Respectfully Submitted,

/s/ Hannah Rogers Metcalfe
Hannah Rogers Metcalfe, Fed ID. 9943
Metcalfe & Atkinson, LLC

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Attorneys for Defendant Hammy Media LTD

August 9, 2022
Greenville, South Carolina